

AO 241 (Rev. 5/85)

PETITION UNDER 28 USC § 2254 FOR WRIT OF
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

United States District Court		District <u>Massachusetts</u>
Name <u>JEAN ST. SUMIN</u>	Prisoner No. <u>FILED</u>	Case No.
Place of Confinement <u>MCI-Norfolk</u>		
2004 JUN 28 P 2:44		
Name of Petitioner (include name under which convicted) <u>JEAN ST. SUMIN</u>		U.S. District Court District of Mass. v. <u>Luis T. Spencer, Supt.</u> <u>MCI-Norfolk</u>
The Attorney General of the State of: <u>Thomas Riley</u>		
PETITION		
1. Name and location of court which entered the judgment of conviction under attack <u>Suffolk</u> <u>Superior Court, Boston, Mass. 02109</u>		
2. Date of judgment of conviction <u>September 8, 1999</u>		
3. Length of sentence <u>8 to 12 years</u>		
4. Nature of offense involved (all counts) <u>Mayhem, Attempted Extortion,</u> <u>intimidation of a witness, stalking and assault and</u> <u>battery with a shod foot, B+E w/ intent to commit</u> <u>misdemeanor, willful and malicious destruction of</u> <u>property</u>		
5. What was your plea? (Check one)		
(a) Not guilty <input checked="" type="checkbox"/>		
(b) Guilty <input type="checkbox"/>		
(c) Nolo contendere <input type="checkbox"/>		
If you entered a guilty plea to one count or indictment, and not a guilty plea to another count or indictment, give details:		
6. If you pleaded not guilty, what kind of trial did you have? (Check one)		
(a) Jury <input checked="" type="checkbox"/>		
(b) Judge only <input type="checkbox"/>		
7. Did you testify at the trial?		
Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		
8. Did you appeal from the judgment of conviction?		
Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		

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9. If you did appeal, answer the following:

- (a) Name of court MASS. Appeals Court
- (b) Result Affirmed conviction
- (c) Date of result and citation, if known 5/17/03, 58 MASS. App. Ct. 1161
- (d) Grounds raised ?

(e) If you sought further review of the decision on appeal by a higher state court, please answer the following:

- (1) Name of court MASS. Supreme Judicial Court
- (2) Result Affirmed conviction
- (3) Date of result and citation, if known 6/26/04, 439 MASS. 1108, 1109
- (4) Grounds raised ?

(f) If you filed a petition for certiorari in the United States Supreme Court, please answer the following with respect to each direct appeal:

- (1) Name of court _____
- (2) Result _____
- (3) Date of result and citation, if known _____
- (4) Grounds raised _____

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal?

Yes ☐ No ☐

11. If your answer to 10 was "yes," give the following information:

- (a) (1) Name of court _____
- (2) Nature of proceeding _____
- (3) Grounds raised _____

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For your information, the following is a list of the most frequently raised grounds for relief in habeas corpus proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you may have other than those listed if you have exhausted your state court remedies with respect to them. However, *you should raise in this petition all available grounds* (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The petition will be returned to you if you merely check (a) through (j) or any one of these grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.
- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (h) Denial of right of appeal.

A. Ground one: _____

Supporting FACTS (state briefly without citing cases or law) The Appeals court erred
by determining the trial court committed no
reversible error by allowing inadmissible
"excited utterance" testimony.

B. Ground two: _____

Supporting FACTS (state briefly without citing cases or law) The appeals court
erred by finding the trial court did not commit
reversible error by allowing the Commonwealth
to join the eighteen charges, by allowing
inadmissible "Bad Acts" testimony.

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C. Ground three: The appeals court erred by finding

Supporting FACTS (state briefly without citing cases or law) the appeals court erred by finding the trial court did not create reversible error by allowing Dr. Judith Linden to testify.

D. Ground four: _____

Supporting FACTS (state briefly without citing cases or law) _____

13. If any of the grounds listed in 12A, B, C, and D were not previously presented in any other court, state or federal, state briefly what grounds were not so presented, and give your reasons for not presenting them: _____

14. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack?
Yes ☐ No ☒

15. Give the name and address, if known, of each attorney who represented you in the following stages of judgment attacked herein:

(a) At preliminary hearing UNKNOWN

(b) At arraignment and plea UNKNOWN

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(c) At trial Melissa D. White Ellis, 355 N. Main
Street, Fall River, Mass. 02720-2405 (508) 674-4664

(d) At sentencing - SAME -

(e) On appeal - SAME -

(f) In any post-conviction proceeding - SAME -

(g) On appeal from any adverse ruling in a post-conviction proceeding - SAME -

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and the same time?

Yes ☒ No ☐

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes ☒ No ☐

(a) If so, give name and location of court which imposed sentence to be served in the future: Same trial

Court on date of judgment

(b) Give date and length of the above sentence: 9/8/99 3 years probation

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes ☒ No ☐

Through this petition.

Wherefore, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding.

X

Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

JUNE 24, 2004
 (date)

X JEAN St Surin Rose
 Signature of Petitioner